

Approved: April 19, 2010.

NOTE: These minutes are subject to Council approval and are not verbatim; however, tapes are available for public review.

**MINUTES OF THE ALBANY CITY COUNCIL**  
**IN REGULAR SESSION,**  
**CITY COUNCIL CHAMBER, 1000 SAN PABLO AVENUE**  
**MONDAY, APRIL 5, 2010**

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**6:15 p.m.**

**CLOSED SESSION**

City Council convenes in the Council Chamber and then adjourns to Closed Session to discuss anticipated litigation pursuant to Government Code Section 54956.9:

Michael Williams, Stephanie Williams & Michael Williams, Jr. v. City of Albany

Real property pursuant to Government Code Section 54956.8

Property:	Adjacent to 1150 8 <sup>th</sup> Street Berkeley.
Negotiating Parties:	City Attorney, City Administrator & Assistant City Administrator, on behalf of the City; Cornish and Carey Commercial Realty, on behalf of property owner.
Under Negotiations:	Consideration of property to be used as a City Maintenance Center.

The City Attorney noted that the following item be considered as an emergency item and the Council needs to have a 4/5 vote to make the determination that there is a need to take immediate action and this need for action came to the attention of the local agency subsequent to the agenda being posted.

It was moved and seconded to consider the emergency item.

AYES: Council Members Atkinson, Javandel, Lieber, Thomsen & Mayor Wile

NOES: None

ABSENT: None

Motion carried and so ordered.

Closed session regarding the initiation of litigation against the California Department of Agriculture by various agencies challenging the Environmental Impact Report on the Light Brown Apple Moth eradication efforts, pursuant to Government Code Section 54956.9c.

**OPPORTUNITY FOR THE PUBLIC TO SPEAK ON CLOSED SESSION ITEMS**

**ADJOURN TO CLOSED SESSION**

**7:30 p.m.**

Mayor Wile called the regular meeting of the Albany City Council to order on the above date and led the Pledge of Allegiance to the Flag,

**ROLL CALL**

Present: Council Members Atkinson, Javandel, Lieber, Thomsen & Mayor Wile  
Absent: None

**STAFF PRESENT**

**3. REPORT ON ACTION TAKEN IN CLOSED SESSION, IF ANY**

The City Attorney reported on the Closed Sessions, as follows: Anticipated Litigation: Council meets with legal Counsel and gave instructions to the Attorney. Real Property: Council gave instructions to the City Administrator, Assistant City Administrator and the City Attorney to explore the possibilities. Emergency Item: Council gave directions to the City Attorney.

**4. CONSENT CALENDAR**

(Consent Calendar items are considered to be routine by the City Council and will be enacted by one motion. By approval of the Consent Calendar, the staff recommendations will be adopted unless otherwise modified by the City Council. There will be no separate discussion on these items unless a Council Member or a member of the audience requests removal of the items from the Consent Calendar.)

**4-1. Minutes, March 15, 2010.**

Staff recommendation: Approve.

- 4-2.** a. Ratification of City of Albany net payroll in the amount of \$190,179.71; taxes, benefits & withholdings in the amount of \$149,706.99. Total payroll in the amount of \$339,886.70. Payroll period: 03/12/10.  
b. Ratification of Albany Municipal Services JPA net payroll in the amount of \$51,074.64; taxes, benefits & withholdings in the amount of \$39,333.14. Total payroll in the amount of \$90,407.78. Payroll period: 03/12/10.

Staff recommendation: Ratify.

**4. CONSENT CALENDAR**

- 4-3.** a. Ratification of bills, claims and demands against the City of Albany in the amount of \$363,661.48. Period: 03/19/10.  
b. Ratification of bills, claims and demands against the City of Albany JPA in the amount of \$318.00. Period: 03/19/10.  
(File #300-40)
- 4-4.** Ratification of pension payments in the amount of \$116,662.26 for the month of March, 2010.
- 4-5.** Resolution No. 201-14 – A Resolution of the Albany City Council Approving and Accepting Improvements and Directing the Filing of the Notice of Completion for Contract No. C09-9, 2009 Accessibility Ramps Project.  
(File #600-30)

Staff recommendation: Approve Resolution No. 2010-14.

- 4-6.** Award of contract for repairs to the Community Center/Library Tower.  
(File #600-30)

Staff recommendation: Reject the lowest bidder, IMR Contractors Corp (IMR), as non responsive and award a contract to the second low bidder, Cal-Bay Construction (Cal Bay) of San Leandro, California.

Mayor Wile asked if anyone would like to remove an item from the Consent Calendar. The following item was removed for discussion Item 4-1.

**4-1. Minutes, March 15, 2010.**

The City Clerk submitted corrections made by Council Member Lieber on page 4 and after listening to the tape, corrected the second portion of the motion on Page 5.

Page 4, Item 7-1, 4<sup>th</sup> paragraph: Added San Pablo & Solano Avenues. Page 5, Motion: second paragraph changed the motion, as follows: It was also moved and seconded to 1) delete reference to wind turbine 2) to add a sentence about heights that still conform to current codes and 3) direct staff to return to Council with a draft implementation schedule and potential funding mechanisms.

Council Member Thomsen stated that she listened to the tape and Council Member Lieber spoke to height limits on San Pablo and Solano and did not mention commercial districts.

**4. CONSENT CALENDAR**

**MOTION:**

It was moved by Council Member Atkinson, seconded by Council Member Javandel to approve the Consent Calendar as submitted and to include the correction to the minutes, as submitted by the City Clerk.

AYES: Council Members Atkinson, Javandel, Lieber, Thomsen & Mayor Wile

NOES: None

ABSENT: None

Motion carried and so ordered.

**5. GOOD OF THE CITY/PUBLIC FORUM/ANNOUNCEMENTS**

Mayor Wile opened the Good of the City/Public Forum/Announcements and asked if anyone would like to speak.

The following spoke: Karina Tindol, Albany Police Department; Brian Parsley, Albany resident; Allan Maris, Albany resident; Representative from the U.S. Census Bureau; Jordan Sampietro.

A summary of the comments is as follows: The following announcements were made: 1) Emergency Preparedness Resource Fair, Saturday, May 1, 10-2 p.m., at the Albany Fire Department. 2) A benefit for the Albany Education Foundation and the Albany Community Foundation, Saturday, April 24, 7:30 – 10:30 p.m. at Northbrae Community Church. 3) The Community Foundation has completed the clean-up day at Jewel's Terrace Park and hopes to continue the partnership with the City.

Spoke about the Census and that a number of people did not receive the forms in the mail and noted that the forms are available at the Community Center. Spoke about a Senior Fair, which was held and one of the topics dealt with senior housing and it was noted that there is not much senior housing in Albany. Concern was expressed that during the event U.C. California was harassed by people and left the fair early. A representative from the U.S. Census Bureau spoke to the issue of people not receiving census forms and noted that some forms are still being delivered, as the Census Bureau has until April 15<sup>th</sup>. The representative encouraged people to get their forms from the Community Center and mail them in. It was also noted that some mailings had the wrong city but that people should not be concerned, as it would not make any difference to the Census count for Albany because it is the address that counts. A complaint was made about the Club Mallard and the problem it causes to the residents of Washington Street.

The City Council made the following announcements: 1) It was noted that the Social & Economic Justice Commission is working on an Open Container Ordinance. 2) The Lions Club awarded \$500 to the Bill Johnson Scholarship. 3) Spoke about great Little League Parade that was held last Saturday.

There being no one else wishing to speak Mayor Wile closed the Good of the City/Public Forum/Announcements.

## 6. PRESENTATION

### 6-1. Presentation to the Albany Library Board

Council Member Lieber presented a proclamation to members of the Albany Library Board proclaiming April 11-17, 2010 as National Library Week.

### 6-2. Voices to Vision

(File #490-20)

Fern Tiger, Fern Tiger Associates, presented the results of *Voices to Vision* – a comprehensive process to determine the community’s vision for the Albany Waterfront. Ms. Tiger stated that the goal of this report is to present both the story of *Voices to Vision* and the data and findings that led to the recommendations. The story is intended to provide a chronicle of the thinking that led to the design of the community process and to capture the challenges, frustrations, excitement and successes of the last two years. The report is intended to document *Voices to Vision* with sources and materials so that current and future Albany residents will know what transpired from start to finish. Ms. Tiger noted that 1,200 Albany residents participated in the process.

The report was handed out to the Council and a summary available to the public and it was noted that on April 19<sup>th</sup> this would be back on the agenda for public questions and comments.

A summary of the City Council comments is as follows: That Fern Tiger Associates did a great job in presenting the work in a fair and impartial manner; looking forward to reading the document in detail but was disappointed that so many buildings are shown on Fleming Point; thanked Fern Tiger Associates for a job well done and noted this is a very valuable document with alternatives provided that try to achieve what the people want at that location.

The following people spoke: Deborah Kalama, Albany resident; Dorothy Reid, Albany resident; Tony Sismick, Richmond resident; Lubov Mazor, Albany resident; Peter Hobart, Albany resident; Nick Pilch, Albany resident; Brian Parsley, Albany resident; Robert Cheasty, representing CESP and Citizens for Albany Shoreline; Allan Maris, Albany resident; Francesco Papalia, Albany resident.

A summary of the comments is as follows: Thanked Fern Tiger Associates for a job well done; noted that the process made one be reasonable; spoke about the engagement of the community; expressed concern about the lack of access to Albany from the development; enjoyed the process; surprised that the report came back with so much interest in open space and expressed concern about the retail on Fleming Point; noted that the youth of the community want more retail and cautioned everyone that although the plan looks good the City does not own the property; it was noted that a plan done by other East Bay residents want 100% open space; liked the outreach to the community and expressed concern with the building on Fleming Point; noted there was not enough time during the workshop; asked people to think outside the box.

Mayor Wile stated that this item would be back on the April 19<sup>th</sup> agenda and thanked everyone who attended tonight.

**7. UNFINISHED BUSINESS**

**7-1. Climate Action Plan**  
(File #405-45)

Council Member Lieber stated that this was put back on the Council before the motion of the minutes was corrected and noted that he does not have a conflict of interest with this item and would recommend that this item not be reconsidered.

The City Administrator expressed concern that the motion made at the March 15<sup>th</sup> meeting is ambiguous with respect to the height and wind turbines and would like clarification on the intent of the motion.

Council Member Thomsen stated that after listening to the tape of the meeting, Council Member Lieber specifically spoke to San Pablo Avenue and Solano Avenue with reference to height limits. Council Member Thomsen noted that Council Member Lieber has a history of advocating height limits on San Pablo Avenue.

The City Attorney responded that it is the motion that counts regarding a conflict not the prior comments.

The Planning Manager submitted the following language to be considered: Wind Energy: Page III -11 – remove last sentence in wind energy discussion and on Page III 12 remove second paragraph.

The following people spoke: Robert Cheasty, CESP, Citizens for Albany Shoreline. A summary of the comments is as follows: CESP and Citizens for Albany Shoreline are in favor of wind energy considered but not on the bulb.

**MOTION:**

Moved by Council Member Javandel, seconded by Council Member Atkinson to remove reference to wind energy, as submitted by the Planning Manager.

AYES: Council Members Atkinson, Javandel, Lieber, Thomsen & Mayor Wile

NOES: None

ABSENT: None

Motion carried and so ordered.

**8. NEW BUSINESS**

**8-1. Endorsement of Proposition 15 – California Fair Elections Act.**  
(File #660-40)

Mayor Wile submitted this item noting that Proposition 15 would be on the June, 2010 ballot to create a pilot project providing voluntary public financing for candidates running for Secretary of State in 2014 and 2018. Proposition 15 is patterned after the Fair Elections system now working in Arizona, Maine and Connecticut but adapted for California.

A summary of the City Council comments is as follows: Support Proposition 15 and is outraged by the current ruling of the Supreme Court. Spoke about the public financing that Albany currently does for the Candidate Statement and believes that this should be put on a future agenda for discussion. It was noted that this Proposition was sponsored by Loni Hancock. Responded to concern about local campaign finance and

**8-1. Endorsement of Proposition 15 – California Fair Elections Act.**

noted that any Council Member could put an item on the agenda for discussion. Spoke about the need for fair campaigns and is curious to see how this trial is going to work and supports the Proposition. Expressed concern over the old City campaign Ordinance and stated that after this election year would hope this could be revisited.

The following people spoke: Allan Maris, Albany resident; Caryl O’Keefe, Albany resident.

A summary of the comments is as follows: Thanked the Mayor for placing this on the agenda and agreed it was ironic that this is being supported but a local ordinance is not. Agreed with other speakers that Albany should concentrate on getting its own campaign financing on the books.

**MOTION:**

Moved by Council Member Atkinson, seconded by Council Member Lieber to go on record, as endorsing Proposition 15.

AYES: Council Members Atkinson, Javandel, Lieber, Thomsen & Mayor Wile

NOES: None

ABSENT: None

Motion carried and so ordered.

**9. OTHER BUSINESS, REPORTS ON MEETINGS ATTENDED, ANNOUNCEMENT OF EVENTS/FUTURE AGENDA ITEMS**

Council Member Thomsen requested an item regarding public financing be on a future agenda before the budget process.

The Council made the following announcements: 1) Noted that the fundraiser for the WriterCoach Connection at Albany High School was well attended. 2) Announced that the Friends of the Albany Library made over \$2,000 in its book sale. 3) Announced support for the neutering of dogs that are in the pound and adopted a puppy from that was a rescue dog. 4) Gave an update on the street closure for the annual bike to work day in May noting that Marin School was participating and that Curtis would be closed. 5) Announced that the street painting project was not going to be workable but would keep working on some type of school project.

**10. ADJOURNMENT**

There being no further business before the Council it was moved and seconded to adjourn the meeting in memory of Sally Outis and a moment of silence was observed.

**10. ADJOURNMENT**

Minutes submitted by Jacqueline L. Bucholz, CMC, City Clerk.

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Joanne Wile  
Mayor

Attest:

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Jacqueline L. Bucholz, CMC  
City Clerk